

Rule 604. Interpreters.

An interpreter must be qualified and must give an oath or affirmation to make a true translation.

Comment to 2012 Amendment

The language of Rule 604 has been amended to conform to the federal restyling of the Evidence Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only. There is no intent to change any result in any ruling on evidence admissibility.

Cases

604.010 The determination whether an interpreter is qualified is left to the sound discretion of the trial court.

In re MH 2007-001895, 221 Ariz. 346, 212 P.3d 38, ¶¶ 9-12 (Ct. App. 2009) (at mental health evaluation hearing, trial court used interpreter from Language Line Services, who translated via speaker phone; court held trial court did not abuse discretion in determining interpreter was qualified).

604.020 This rule requires only that an interpreter be “court qualified”; there is no requirement that an interpreter be “court certified.”

In re MH 2007-001895, 221 Ariz. 306, 212 P.3d 38, ¶¶ 9-13 (Ct. App. 2009) (at mental health evaluation hearing, trial court used interpreter from Language Line Services, who translated via speaker phone; court rejected claim that interpreter had to be “court certified”).

604.030 Although the determination whether an interpreter is qualified is a matter for the trial court, a party may still impeach the interpreter’s translation, this resolution being for the jurors.

State v. Marcham, 160 Ariz. 52, 770 P.2d 356 (Ct. App. 1988) (interpreter was for deaf juror).

State v. Burris, 131 Ariz. 563, 643 P.2d 8 (Ct. App. 1982) (trial court allowed party to cross-examine interpreter about her misinterpretations, and should have let that party’s own interpreter testify before jurors).

604.040 A presumption exists, based on the oath of the interpreter, that the interpreter will make a proper interpretation of the proceedings.

In re MH 2007-001895, 221 Ariz. 306, 212 P.3d 38, ¶¶ 14-15 (Ct. App. 2009) (at mental health evaluation hearing, trial court used interpreter from Language Line Services, who translated via speaker phone; because appellant made no claim to trial court that interpreter was not translating properly, appellate court presumed that all parties were able to hear and understand the proceedings).

State v. Mendoza, 181 Ariz. 472, 891 P.2d 939 (Ct. App. 1995) (because of presumption, lack of transcript of communications between a deaf juror and court-appointed sign-language interpreter did not deny defendant his due process rights).

State v. Marcham, 160 Ariz. 52, 770 P.2d 356 (Ct. App. 1988) (interpreter was for deaf juror; because defendant did not object, there was nothing in record to indicate sign-language interpreter did not properly interpret proceedings, thus presumption applied).

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604.050 If a party is contending that the interpreter failed to translate simultaneously all crucial proceedings, the party must present that claim first to the trial court so that the trial court will be able to address and correct any problems that exist; if the party does not make such a claim to the trial court, that party will be considered to have waived any error on appeal.

In re MH 2007-001895, 221 Ariz. 306, 212 P.3d 38, ¶¶ 14-15 (Ct. App. 2009) (at mental health evaluation hearing, trial court used interpreter from Language Line Services, who translated via speaker phone; because appellant made no claim to trial court that interpreter was not translating properly, appellate court presumed that all parties were able to hear and understand the proceedings; court held that appellant waived any objection that she did not receive a continuous simultaneous translation).

604.060 The failure of an interpreter to translate simultaneously all crucial proceedings may deny a defendant due process of law.

State v. Hansen, 146 Ariz. 226, 705 P.2d 466 (Ct. App. 1985) (although defendant understood some English, record was ambiguous whether defendant knew enough English to proceed without an interpreter; because many important parts of proceedings were not translated, defendant was denied due process of law).

April 10, 2013